Remarks

Restriction

In the Response to Restriction Requirement filed on April 25, 2005, the Applicant elected Group I, claims 15 and 18, with traverse, and elected SEQ ID NO: 1 for initial prosecution.

Group I and Group II, claims 21, 22, 29-31, and 34, should be considered together, because a search of the claims of each of these groups would involve consideration of similar elements, and therefore, would not constitute a burden to the Examiner. Both Groups I and II require the feature of using a therapeutically effective amount of an osteopontin-derived **chemotactic** peptide, which is not full-length osteopontin, to either promote wound healing or cell migration/chemotaxis. As discussed in the Response filed April 25, 2005, cell migration and chemotaxis are integral processes in wound healing. In addition, the use of osteopontin-derived chemotactic peptides is neither taught nor suggested by the cited references, as discussed below. Therefore, the claims define a unifying concept over the prior art.

Rejection Under 35 U.S.C. § 103

Claims 15 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,124,155 to Reich ("Reich") in view of Kiefer et al. *Nucleic Acids Res.* 17: 3306 (1989) ("Kiefer") or U.S. Patent No. 5,880,092 to Pierschbacher ("Pierschbacher") in view of Kiefer. In addition, Claims 15 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,630,572 to Carney ("Carney"), in view of Kiefer. Applicants respectfully traverse this rejection to the extent that it is applied to the claims as amended.

Reich, Pierschbacher, and Carney teach that RGD-containing peptides are effective to promote wound healing and Kiefer provides the amino acid sequence of full-length osteopontin.

Together, the references teach that *full-length* osteopontin promotes *cell adhesion*. However, the references fail to disclose osteopontin-derived *chemotactic* peptides, which are defined by the specification on page 5, lines 10-27. None of the chemotactic peptide sequences contain an RGD sequence. In addition, the specification teaches that it is not the RGD sequence that makes the claimed peptides chemotactic. Example 4 demonstrates that osteosarcoma cells chemotax toward osteopontin (OPN), and OPN(ct), the C-terminal half of OPN after thrombin cleavage, but *not* to OPN(nT), the N-terminal half that *contains* the RGD sequence.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). The cited references teach full-length osteopontin. However, the claims, as amended, are directed to osteopontin derived chemotactic peptides that are not full-length osteopontin. Support for this amendment can be found on page 5, lines 17-18, which specifically states that "the peptides of the invention are not intended to include the full-length osteopontin polypeptide". The Applicant would like to point out that this type of an amendment is definite as explained in MPEP § 2173.05(i).

It is clear from the above discussion that the references, either alone, or in combination, do not teach or suggest the claimed subject matter.

Allowance of claims 15, 18, 21-22, 29-31 and 34, as amended, is respectfully solicited.

Respectfully submitted,

Brian K. Adams
Reg. No. 56,288

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PABST PATENT GROUP LLP
400 Colony Square, Suite 1200
1201 Peachtree Street
Atlanta, Georgia 30361
(404) 879-2151
(404) 879-2160 (Facsimile)